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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION

ABDULA CONTEK

CIVIL ACTION NO. 05-0904

VERSUS

JUDGE ROBERT G. JAMES

ALBERTO GONZALES, ET AL.

MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Before the Court is a motion for summary judgment (Doc. #13) filed by Petitioner, Abdula Contek, and a motion to dismiss [Doc. #17] filed by Respondent. Both motions were referred to me for report and recommendation. Petitioner, Abdula Contek, initially filed a Petition for Writ of Habeas Corpus pursuant to 22 U.S.C. § 2241, asserting that his continued detention beyond six months is unconstitutional under the Supreme Court's ruling in Zadvydas v. Davis, 533 U.S. 678 (2001).

In its motion to dismiss, Respondent submits that Petitioner, Abdula Contek, was released by the USICE under an Order of Supervision on June 16, 2006. (Doc. #17, Exhibit 1.) Since Petitioner is no longer detained by the USICE, there is no longer a justiciable controversy before the court. See Alwan v. Ashcroft, 388 F.3d 507, 511 (5 Cir. 2004).

Considering the foregoing, it is recommended that:

- (1) Respondent's Motion to Dismiss (Doc. #17) be GRANTED, as Petitioner has been released and is no longer in the custody of USICE;

- (2) Petitioner's Motion for Summary Judgment (Doc. #13) be DENIED as MOOT; and
- (3) the Petition for Writ of Habeas Corpus be DISMISSED WITHOUT PREJUDICE.

Objections

Under the provisions of 28 U.S.C. § 636(b)(1)(c) and Fed.R.Civ.P. 72(b), the parties have **ten (10) business days** from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **ten (10) days** after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the District Judge at the time of filing. Timely objections will be considered by the district judge before he makes a final ruling.

**A PARTY'S FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT ON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.**

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 17th day of July, 2006.

  
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JAMES D. KIRK  
UNITED STATES MAGISTRATE JUDGE